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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,428	12/11/2003	Andreas Simmel	10191/3326	1824
26646	7590	10/13/2004	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004.			NASRI, JAVAID H	
			ART UNIT	PAPER NUMBER
			2839	

DATE MAILED: 10/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/733,428	SIMMEL, ANDREAS
	<b>Examiner</b>	<b>Art Unit</b>
	Javaid Nasri	2839

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 11 December 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>6/9/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### *Information Disclosure Statement*

1. Certain defects were noted in the form PTO-1449 received on 6/9/2004:
  - a) It was noted in the title of PTO-1449 form received on 6/9/2004, “SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT BY APPLICANTS PTO FORM 1449”. It was confirmed by Ms. Karin Kuhnla on a telephone conversation that no other PTO-1449 was filed. Accordingly the examiner crossed out word “Supplemental”.
  - b) Ms. Karin Kuhnla also mentioned that Patent number 6,222,164 should be 5,222,164. Hence the examiner corrects PTO-1449 accordingly.

### *Specification*

2. The disclosure is objected to because of the following informalities:
  - a) The operation of the device is not clearly explained in the specification.
  - b) The specification does not address “a chip” per claim 4, “a transponder” per claim 5,

Appropriate correction is required.

### *Drawings*

3. The drawings are objected to because

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- a) In figure 2a, the switch 13 is shown on socket 3, but in figure 2b, the switch 13 is shown on plug 4.
- b) The drawing in general does not show the operation clearly.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

*Oath/Declaration*

4. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

- a) In the declaration the date associated with the signature of the applicant is crossed out.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Kawase at al (5,112,246).

Kawase at al disclose **for claim 1**, a detection device including an analyzer device and a data transmission device (17), the analyzer unit being configured to detect a position of the locking element (3, 5) and the data transmission device being configured to transmit the determined position of the locking element, **for claim 2**, a switch (10) arranged below the locking element,

7. Claims 1, 3, 4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kouda at al (5,120,255).

Kouda at al disclose **for claim 1**, a detection device including an analyzer device and a data transmission device, the analyzer unit being configured to detect a position of the locking element (see figure 1) and the data transmission device being configured to transmit the determined position of the locking element (see col. 5, lines 31-44), **for claim 3**, the locking element has an opening through which a light-emitting diode emits radiation onto a photovoltaic cell when the locking element is in a defined position (see col. 5, lines 31-44), **for claim 4**, the

detection device is arranged on a chip element (see col. 5, lines 31-44), **for claim 7**, a receiver unit including a memory for storing an indication of the determined position (see col. 5, lines 31-44).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kouda et al in view of Stanescu (6,784,802).

Kouda et al discloses all the limitations of claim 1, as shown above,

However, Kouda et al does not disclose,

- a) The detection device includes a transponder. Stanescu discloses a detection device includes a transponder (see abstract), therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention for Kouda et al to include a transponder in its detection device in view of Stanescu to better facilitate in detection.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kouda et al in view of Loh (5,686,897).

Kouda et al discloses all the limitations of claim 1, as shown above,

However, Kouda et al does not disclose,

a) The receiver unit configured to be attached to a wrist. Loh discloses a receiver unit configured to be attached to a wrist (see abstract), therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention for Kouda et al to have the receiver unit configured to be attached to a wrist in view of Loh for quick detection.

*Contact*

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Javaid Nasri whose telephone number is 571 272 2095. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tulsidas C. Patel can be reached on 571 272 2800 ext 39. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Any correspondence to this action may be mailed to:**

**Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450**

For additional information regarding this new address, which was effective May 1, 2003, see  
*Correspondence with the United States Patent and Trademark Office, 68 Fed. Reg. 14332*  
(March 25, 2003).

**Or faxed to:** 703-308-7722 or 308-7724 (informal or draft communications should be clearly labeled  
“PROPOSED” or “DRAFT”)

**Hand-delivered responses should be brought to:**

**Crystal Plaza 4, Fourth Floor (receptionist)  
2201 South Clark Place, Arlington, Virginia**

  
Javaid Nasri  
Primary Examiner  
Art Unit 2839

JN  
jhn  
September 29, 2004